

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

09	EZQUIEL HERNANDEZ-MARQUEZ,)	CASE NO.	C05-0416-TSZ-MAT
)		CR04-0134-JLR
10	Petitioner,)		
)		
11	v.)	REPORT AND RECOMMENDATION	
)		
12	UNITED STATES OF AMERICA, et al.,)		
)		
13	Respondents.)		
)		

Petitioner is a federal prisoner who has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C § 2241. (Dkt. #1). In the petition, petitioner alleges that he received ineffective assistance of counsel during his recent criminal trial in federal court. However, petitioner's criminal proceedings are still pending, as he has yet to be sentenced. (*See* Dkt. #159 in Case #CR04-134). In addition, it appears that he has raised some of the same issues in his ongoing criminal case that he raises here. (*See* Dkt. #156 & 158 in Case #CR04-134). Accordingly, petitioner's habeas petition should be dismissed without prejudice as premature. *Cf. United States v. Deeb*, 944 F.2d 545, 548 (9th Cir. 1991) (holding that a district court should not entertain a petitioner's collateral attack on a conviction when the petitioner has alternative avenues for relief).

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01 A proposed Order accompanies this Report and Recommendation.

02 DATED this 20th day of May, 2005.

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04 Mary Alice Theiler
05 United States Magistrate Judge
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